MT LEGISLATIVE HISTORY

Chapter 592 1979

Bill (H) 708 S _____ Original bill & hist. ✓ C

H. Committee on Highways & Transportation			S. Committee on Highways & Transportation		
Hearing Date(s)	FEB 15	✓ C	Hearing Date(s)	MAR 06	✓ C
		C	S. Comm. on	MAR 20	✓ C
		C	Judiciary	MAR 21	✓ C
		C			C
Date Out		C			C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SENATE COMMITTEE ON HIGHWAYS AND TRANSPORTATION

BILL NUMBER	DATE RECEIVED	TITLE	SPONSOR	HEARING	ACTION
SB708	2-22-79	An act requiring motor vehicle liability protection on motor vehicles as a condition of operation of those vehicles upon the highways or other premises open to use by the public; amending sections 61-6-123.	PISTORIA	3-6-79	SENT TO THE JUDICIARY COMMITTEE
SB741	2-23-79	An act to amend section 61-5-101, MCA, to revise the powers and responsibilities of the Division of Motor Vehicles regarding the licensing of drivers.	BRAND	3-13-79	BE CONCURRED IN 3-13-79
SB778	2-23-79	An act to provide that license plates and the gross vehicle weight license of a motor vehicle may be transferred to another motor vehicle without transferring ownership of the first vehicle and that upon such transfer the registration of the first vehicle expires; amending sections 61-3-335 and 61-10-224, MCA.	KEEDY	3-15-79	BE CONCURRED IN 3-17-79
SB780	2-23-79	An act to authorize the department of highways to administer rail planning activities; amending section 60-2-201, MCA; and providing an effective date.	BRAND	3-8-79	BE CONCURRED IN 3-8-79
SB787	2-23-79	An act to provide for rehabilitation of certain rail facilities; authorizing the issuing of revenue bonds and the making of loans and creating a bureau of rail transportation within the department of highways and providing an effective date.	BRAND	3-8-79	BE CONCURRED IN AS AMENDED 3-8-79

CHAPTER NO. 592

HOUSE BILL NO. 708

INTRODUCED BY PISTORIA, GILLIGAN, H. ROBBINS, TROPILA, VINCENT, BENGTSON, HOLMES, DOZIER

IN THE HOUSE

February 10, 1979	Introduced and referred to Committee on Highways and Transportation.
February 15, 1979	Committee recommend bill do pass as amended. Report adopted.
February 17, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass as amended.
February 21, 1979	Correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 22, 1979	Introduced and referred to Committee on Highways and Transportation.
March 7, 1979	Rereferred to Committee on on Judiciary.
March 22, 1979	On motion taken from Committee on Judiciary and referred to second reading. Motion adopted.
March 24, 1979	Motion pass consideration.
March 26, 1979	Second reading, concurred in as amended.
March 27, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 28, 1979	Returned from second house. Concurred in as amended.
March 31, 1979	Second reading, amendments rejected.
	Joint Conference Committee requested.
April 2, 1979	Joint Conference Committee appointed.
April 5, 1979	Joint Conference Committee reported.
April 6, 1979	Second reading, adopted.
April 7, 1979	Third reading, adopted.
April 9, 1979	Second house, adopted. Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 708

INTRODUCED BY Pat Pistoria Gillan Robb Doyle VINCENT Boughton Howard Dozier

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING MOTOR VEHICLE LIABILITY PROTECTION ON MOTOR VEHICLES AS A CONDITION OF OPERATION OF THOSE VEHICLES UPON THE HIGHWAYS OR OTHER PREMISES OPEN TO USE BY THE PUBLIC; AMENDING SECTIONS 61-6-123 AND 61-6-142, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Required motor vehicle insurance. (1) Every owner of a motor vehicle which is registered and operated in Montana by the owner or with his permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of a motor vehicle, as defined in 61-1-102, in an amount not less than that required by 61-6-103, or a certificate of self-insurance issued in accordance with 61-6-143.

(2) A motor vehicle owner who prefers to post an indemnity bond with the director of insurance in lieu of obtaining a policy of liability insurance may do so. The bond shall guarantee that any loss resulting from liability imposed by law for bodily injury, death, or damage to property suffered by any person caused by accident and arising out of the operation, maintenance, and use of the motor vehicle sought to be registered shall be paid within 30 days. The indemnity bond shall guarantee payment in the amount provided for insurance under subsection (1).

(3) Any bond given in connection with this section is a continuing instrument and shall cover the period for which the motor vehicle is to be registered and operated. Such bond shall be on a form approved by the commissioner of insurance with a surety company authorized to do business in the state.

NEW SECTION. Section 2. Proof of compliance. (1) Before any applicant required to register his motor vehicle may do so the applicant must certify the existence of automobile liability insurance covering the motor vehicle on a form prescribed by the division of motor vehicles. The division may immediately cancel the registration and license plates of the vehicle upon notification that the insurance certification was not correctly represented.

(2) An owner of a motor vehicle who ceases to maintain the insurance required shall immediately surrender the registration and license plates for the vehicle to the division and may not operate or permit operation of the vehicle in Montana until insurance has again been furnished as required and the vehicle is again registered and

licensed.

NEW SECTION. Section 3. Exempt vehicles. The following vehicles and their drivers are exempt from the provisions of [section 1]:

(1) a vehicle owned by the United States government or any state or political subdivision;

(2) a vehicle for which cash, securities, or a bond has been deposited or filed with the division upon such terms and conditions providing the same benefits available under a required motor vehicle liability insurance policy;

(3) a vehicle owned by a self-insurer certified as provided in 61-6-143;

(4) an implement of husbandry or special mobile equipment that is only incidentally operated on a highway or property open to use by the public;

(5) a vehicle operated upon a highway only for the purpose of crossing such highway from one property to another;

(6) a commercial vehicle registered or proportionally registered in this and any other jurisdiction provided that vehicle is covered by a motor vehicle liability insurance policy complying with the laws of another jurisdiction in which it is registered;

(7) a vehicle moved solely by human or animal power.

NEW SECTION. Section 4. Penalties. It is unlawful for

any person to operate a motor vehicle upon highways, streets, or roadways of this state without a valid policy of liability insurance in effect in an amount not less than that provided in [section 1] or unless such person has been issued a certificate of self-insurance pursuant to [section 2] or has previously posted an indemnity bond with the commissioner of insurance as provided by [section 1]. A violation of this section is a misdemeanor.

Section 5. Section 61-6-123, MCA, is amended to read:

"61-6-123. Suspension to continue until judgments paid and proof given -- maximum period of suspension. Such license, ~~registration,~~ and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license ~~or registration~~ be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent hereinafter provided, and until the person gives proof of financial responsibility subject to the exemptions stated in 61-6-122 and 61-6-125 or 6 years have passed from date judgment was first entered as provided in 25-9-301, and the person has complied with [sections 1 and 2]."

Section 6. Section 61-6-142, MCA, is amended to read:

"61-6-142. Duration of proof -- when ~~proof~~ money or securities may be canceled or returned. (1) ~~The division~~

~~shall--upon-request-consent-to-the-immediate-cancellation-of any-bond-or-certificate-of-insurance,-the~~ The division shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this part as proof of financial responsibility, or the division shall waive the requirement of filing proof under this part, in any of the following events:

(a) at any time after 3 years from the date such proof was required when during the 3-year period preceding the request the division has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration, or nonresident's operating privilege of the person by or for whom such proof was furnished;

(b) in the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

(c) in the event the person who has given proof surrenders his license and registration to the division.

(2) However, the division shall not consent to ~~the cancellation-of-any-bond-or~~ the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has ~~filed-such--bond--or~~ deposited

such money or securities has, within 1 year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the division.

(3) Whenever any person whose proof has been canceled or returned under subsection (1)(c) of this section applies for a license or registration within a period of 3 years from the date proof was originally required, any such application shall be refused unless the applicant ~~shall reestablish-such-proof-for--the--remainder--of--such--3-year period~~ complies with the insurance or bond requirements under [sections 1 and 2]."

-End-

HB 708

CONSIDERATION OF HOUSE BILL 708: Representative Paul G. Pistoria, Disctrict 39, Chief Sponsor of House Bill 708, gave each committee member Exhibit "E". This is an act requiring motor vehicle liability protection on motor vehicles as a conditon of operation of these vehicles upon the highways or other premises open to use by the public; amending sections 61-6-123 and 61-6-142, M.C.A. It is a compulsory liability insurance bill. I feel it has been needed for some time. 40% of the cars in Montana are uninsured. In the past year I discovered that the State of Idaho had a law for compulsory liability insurance and it was simple in scope and easy to enforce. A copy of that law in in Exhibit "E". This bill is exactly the Idaho Law. On Page 1, line 23 and 24, the Department of Motor Vehicles is involved. On Page 2, line 16, the application will be made to the county treasurer.

He told the committee the automobile liability insurance, historically, was developed, not primarily as a means of compensating victims, but as a means of protecting owners and drivers from financial loss resulting from the legal liability due to the negligent operation of their automobile. Much of the criticism of automobile liability insurance today stems from a fundamental misconception of what the liability section of the automobile insurance policy is designed to accomplish. To repeat, the automobile liability policy was never designed to protect the injured party, but rather to insulate the owner and operator from legal liability claims, valid or otherwise, arising out of the operating of his automobile.

The active interest in compulsory automobile liability insurance today arises out of the misconception that automobile liability insurance is automatically to pay for injuries or damages resulting from an automobile accident. It just doesn't work that way. First of all, an accident has to be reported to the company and the circumstances investigated. In very few cases is the legal liability of the people involved clear and absolute. This often brings into play the controversial comparative negligence statute. Ultimately, in the more serious cases, where parties cannot agree, a lawyer is involved and possibly a suit is filed. Until agreed settlement is reached or a judgment awarded, the case is not concluded, and there could be appeals. All of this is time consuming, expensive, and, but in few cases, results in complete satisfaction to the claimant. To make matters worse, many claims are relatively small and involve damage to the claimant's automobile with repair costs coming below his collision deductible if there is collision coverage. Though most frustrating, economically, it is often impractical to pursue these cases through the courts.

All of this, then simply points up the fact that, even with 100% complaince under a compulsory automobile liability insurance statute, many claimants will not receive full or even partial payment for their loss. At the same time, for the insured, the automobile liability policy is doing just exactly what has been contractually agreed upon and for which a specified premium has been paid.

Representative Pistoria then brought attention to the forms attached to the back of Exhibit "E". One form the State of Idaho uses and one form insurance companies use. These are just

samples. I feel this is a simple law. It has worked in the State of Idaho. I think it is needed in the State of Montana. It might lower the cost of insurance premiums. We are now paying for those people who are not insured. I have discussed this bill with the highway patrol and they have no problems with the bill. There have been other compulsory liability insurance bills introduced to the State. If the State is going to introduce one that would be too strict, they would have to put on an additional five or six patrolmen. I feel the state of Montana is not ready for this. I feel the bill I am presenting today will do the right job and still be something that Montana has needed for some time. I feel it will not be a burden to the people in Montana.

Senator Etchart asked if there were any other proponents to House Bill 708.

Larry Huss, Montana Motor Carriers Association, said the association reviewed House Bill 708 and is in whole-hearted concurrence with the bill and recommends it do pass.

Chairman Etchart asked if there were any other proponents.

Boyce Clark, representing the Independent Insurance Agents of Montana said from our observations, we believe your constituents want some form of mandatory or compulsory auto liability insurance legislation. In bills previously proposed, there has always been a staggering fiscal note and the prospect of a paper shuffling nightmare.

He said this bill, patterned after one in use in Idaho, is self enforcing, uncomplicated and can be implemented with very little cost. It is looked upon as a practical approach to the problem in Montana by the Montana Highway Patrol. It probably isn't perfect, but it looks like a mighty good way to start on this thorny problem.

Chairman Etchart asked if there were any other proponents.

Jim Manion, Montana Automobile Association, told the committee their membership of 5,300 is ready for such legislation. This bill was very workable in Idaho and as a result has caused Idaho to have the largest percentage of insured people.

Chairman Etchart asked if there were any other proponents.

Rita Theisen, Montana Insurance Department, told the committee they have no problems with the bill and remain neutral.

Larry Majerus, Division of Motor Vehicles, Legal Devision, said they support this bill and would be happy to answer any questions concerning it.

Chairman Etchart asked if there were any other proponents.

Bud Garrick, Montana Highway Patrol, told the committee the Highway Patrol has no position on this bill, but would be happy to answer any questions the committee might have.

Chairman Etchart asked if there were any opponents to House Bill 708. There were none. He asked if the committee had any questions.

Senator Hazelbaker asked Boyce Clark if he had done any research on the compulsory liability insurance in the State of Massachusetts where they have had this for a long time.

Mr. Clark said he had not done any research in that area.

Senator Kolstad asked Larry Majerus what kind of proof a person would have to have about his insurance.

Larry Majerus said he would have to certify to the county treasurer only.

Senator Kolstad asked if the man lied, would there be any penalty.

Mr. Majerus said yes, there would be revocation at that time, but it might be difficult to prove.

Senator Kolstad asked if Idaho operates under a no penalty clause.

Mr. Clark said it simply says that when a fellow signs application for license, that he has and will maintain insurance. Then, if he doesn't do it, it is a misdemeanor of $500 or 6 months in jail.

Senator Healy asked if the Highway Patrol stopped a man for speeding ticket, would they check or ask for proof of insurance at that time.

Mr. Majerus said they would only ask for proof of insurance if the person was involved in an accident. I don't mean to create the idea that we are going to actively enforce and look for people who don't have insurance. We would make the inquiry if they have an accident. We would not make the inquiry on a regular stop.

Senator Graham asked Mr. Clark about the problem driver, who maybe cannot get insurance.

Mr. Clark said this is an underwriting problem. There is available to those who are problem drivers policies by special carriers who take these type of people.

Senator Kolstad asked what kind of burden this will be to the State of Montana and the people on the welfare rolls.

REP. FRATES spoke as an opponent. He said the purpose of driver education is to make better drivers and this tax is coming from violators. He said this bill could destroy the very thing we set out to do. He said funding another way could just increase our school taxes which are already the highest.

Rep. Metcalf in closing said he strongly objected to the bill being considered a killer bill. He said they do not oppose the programs--they endorse them. He said the purpose of the bill is to fund them in a fair and proper way. He said the cities have statutory mill levy limits and currently the city of Helena is spending more money on these two programs than it costs them to run their whole police court system. He said it is only fair to look at some other way of trying to fund these programs. He said currently 46 states have revenue sharing programs where state monies go to pay for local progams, but this is the only time local monies are used to pay for state programs. He said he thought we could generate enough money through surcharges or our state fines.

During questions from the committee, a committee member asked why such a difference in costs in different school systems. Mr. Hahn responded that it depended on whether the program was during school hours or after, the type of equipment (did they use simulators); and he said the program has been running for ten years.

Rep. Feda asked why this wasn't two separate bills as it deals with two separate programs. Rep. Metcalf said they started with two bills and the Legislative Council combined them. In response to another question by Rep. Keyser as to where the students primarily come from--city or rural--Mr. Hahn said the 13 largest cities have 54% of the students that complete driver's education. In response to another question, Mr. Al Thielen, Helena City Manager, said the city has the authority to establish a fee and the judge determines what the fee will be. Mr. Thielen said the legislature which approves a program should assume the responsibility financially for that act. He said this way it is like one person spending the other person's money. In response to a question of where the shcools get their cars, Gerald F. Raunig, Montana Auto Dealer's Assoc., said that generally the cars are loaned to the schools for the driver's program. Rep. Keyser questioned what is wrong with the cities paying the driver education out of fines when so many students are participating in the program. Rep. Metcalf said this is earmarking city funds to pay for state programs.

D. B. Tooley, Montana Highway Patrol, signed as opposing HB 685.

HOUSE BILL 708 REP PAUL G. PISTORIA, District 39, the chief sponsor, said compulsory liability insurance is being demanded by the people. He said he had copied the Idaho law as they had one that seemed to work very well. He said there are two suggested amendments and a copy of these is exhibit 7 and part of the minutes. He passed around a copy of the law of Idaho and this is exhibit 8 of the minutes. He left a copy of a statement

explaining automobile liability insurance (exhibit 9) and samples of forms used by Idaho. Rep. Pistoria read an explanation of compulsory auto insurance and a copy of this is exhibit 10 and part of the minutes.

PAT MELBY, Alliance of American Insurers, said he was also speaking for Glen Drake, American Insurance Association, as Mr. Drake had a conflict and was unalbe to be present. He indicated their support of this bill. He said they like this bill better than the previous one heard in the committee because of its simplicity. He said this bill places the burden where it properly belongs--on the owner of the automobile. Liability insurance must be had before an automobile is registered.

JIM MANION, Montana Automobile Association, said they have contacted their counterparts in Idaho and have found they think this is a very workable bill, and are very happy with it. He said he thought the people of Montana are ready for this.

W. BOYCE CLARK, Independent Insurance Agents of Montana, spoke in support and a copy of his testimony is exhibit 11 and part of the minutes.

JIM BURNHAM, Mountain Bell, said they are neutral on the bill. He suggested some amendments which would clarify self insured exemption. A copy of these amendments is exhibit 12 and part of the minutes.

Rep. Pistoria said he was in accord with that amendment.

DUANE TOOLEY, Montana Highway Patrol, said they are strongly proponents. He said there is a definite need for some action in the insurance field on this as our present laws are pretty well toothless for doing something for someone that suffers damage from an uninsured driver--only recourse is to successfully sue.

RITA M. THEISEN, Montana Insurance Department, said they are not taking a position but felt they would be better left out of it and suggested the bill be so amended on page 1, line 22.

REP. TROPILA spoke his support of the bill. REP. FABREGA said he would like to appear as a proponent. He said he had sent questionnaires to his constituents and 336 had replied for and 23 against. REP. MEYER said he also rises in support and had also sent out questionnaires of which 309 replied for and 18 against.

There were no opponents.

In answer to a question from Rep. Frates, Mr. Clark said he felt the bill is not likely to change the overall cost of insurance.

Rep. Fabrega asked if it would be possible on line 22, page 1, to replace the office of insurance commissioner with the division of motor vehicles. Mr. Majerus said they would not object to this. Rep. Keyser felt on page 3, numbers 4 and 5 were very vague. He said who is going to decide what kind of implement that is. He said he didn't see any need for that to be in. Mr. Melby responsed that most implements of husbandry would not be licesned and so there is no need for insurance. Rep. Wood said there is no provision for enforcing. He asked how can you tell who has insurance and who hasn't. Mr. Melby said if it is found through just normal checking that a person doesn't have the insurance, he is guilty of a misdemeanor. The highway patrol would not be constantly checking nor would the insurance company be constantly sending pieces of paper to the motor vehicle division.

Mr. Tooley said there is no provision in the act that he could see that we must be notified when the insurance is cancelled. If we do determine that the vehicle is not insured we can pick up the plates right then and we don't have to go looking for them.

Also signing as favoring the legislation was:
J. Mayo Ashley, Independent Insurance Agents of Montana
Genevieve S. Adair, National Association of Retired Teachers and American Insurance of Retired Persons

HOUSE BILL 704 REP. HARRISON FAGG, District 63, the chief sponsor, said that he personally feels that mass transit is needed. He said the problem has been not enough money and this bill would clarify the allocation of state funds for public transportation and revise the allocation formula. He said the DCA distributes the funds into the various mass transportation systems.

BARBARA GARRETT, Department of Community Affairs, said they are responsible for administering these funds. She said they were neutral on the bill.

LARRY GRAHL, City of Billings, said they were very much in support and a copy of his testimony is exhibit 13 and part of the minutes.

A representative of the City of Great Falls also said they support the bill.

DAVID ASHLEY, City of Helena, said they support the bill.

Fagg closed and there were no questions from the committee.

EXECUTIVE SESSION

House Bill 704 Rep. Tropila voted do pass. Motion carried with Rep. Kropp voting no (absent Rep. Line).

Ex. 11

House Bill No. 708 15 Feb 79

Mr. Chairman, and members of the committee:

For the record, I am Boyce Clarke representing Independent Insurance Agents of Montana.

From our experience in traveling throughout the state prior to the session and meeting with over 50 legislators and twice that many agents, we are well aware that your consituents want some form of compulsory auto liability insurance. Be this in the form of insurance known as Compulsory where everyone is required to carry the conventional bodily injury and property damage liability insurance or one of the forms of no-fault auto insurance, which, in itself, must be compulsory to be effective.

It is the feeling of our people that your constituents would accept a form of basic compulsory auto liability insurance. Compulsory, where used elsewhere, has always been very expensive to implement and even more expensive to enforce. This has been bourn out by fiscal notes attached to other compulsory poroposals submitted to this and former legislatures.

This bill, patterned after one in use in Idaho, is self enforcing, uncomplicated and can be implemented and enforced with little cost. It is looked upon as a practical approach to the problem by the Montana Highway Patrol. In the meantime, if an intirim study on the no-fault concept proposed under HJR-31 is carried out, it is entirely possible a Montana no-fault statute can be in the wings for substitution at the next session of the Legislature if HB-708 does not perform. We feel this is a practical, workable bill and deserves your serious consideration.

Thank you.

Boyce Clarke

he wondered how much money would the State of Montana have to appropriate to pay for a plan like this for their employees. He stated that in two years after we have passed this bill, collective bargaining will come in to the state and want this as part of a deal to be covered for their employees. He further stated that if we are only talking about $60.00 a year there are 15 thousand employees in the state government, that this would be a considerable sum of money.

Senator O'Hara moved that House Bill 691 be not concurred in.

Senator Anderson stated that he felt the same way that Senator Turnage did; that this is only one more thing the unions will insist on to be added for their employees and he felt that legal fees are one area where they have been raised the least and that people are now better able to buy legal services.

The motion to not be concurred in passed with Senators Brown, Van Valkenburg and Healy voting no.

DISPOSITION OF HOUSE BILL 708:

Senator Turnage moved that this bill be not concurred in.

Senator Brown stated that he is convinced that the right to drive a car is a fundamental right.

Senator Turnage stated that we should look at the alternatives under this bill - either the individual must buy the insurance, he must quit driving or he will go to jail and that is the way the bill reads. It also could involve millions of dollars for legal fees and in addition to that some of the insurance companies love it - under criminal penalties they are going to get premiums and going to rate up everybody. He further stated that in Spokane and in Idaho this has been an administrative nightmare and they claim that it is impossible to administer - a person will buy an insurance policy for a month or two, and then let it lapse and next year go through the whole process again. He read a letter from Underwriter Bill Ellis of the Unigard Insurance Company Branch Office in Spokane, Washington. (See Exhibit A.)

Senator Anderson advised the committee that uninsured motorist coverage costs approximately $6.00 a year and that most people carry comprehensive insurance which covers them in case of an accident and he stated that he did not think that you can take cars away from people in that they have to get around.

Senator Lensink questioned as to what happens if a person does not have insurance and Senator Turnage said that they go to jail or they quit driving.

Senator Turnage read a letter from Jack R. Carlson, Administrator of Economic Assistance Division of the Social and Rehabilitation Services of Helena, Montana. (See Exhibit B.)

Senator Towe stated that at the present time in the state of Montana, a person is allowed to have one accident free and then you have to prove financial responsibility. He further said that they cannot withdraw your driver's license without a hearing and that there are an awful lot of people driving on the roads today without insurance. He felt that they should at least have sufficient coverage to make sure that if they cause harm to someone that they are not going to suffer and that a lot of people get hurt and get hurt bad.

Senator Anderson commented that the state has already addressed the problem in that we have tougher penalties for driving under the influence and this has not lightened the problem in that area, and he felt that what was already on the books was not working.

Senator Turnage commented that this would be a boom for the attorneys in that every time there was a fenderbender, there is a pocket to get into.

Representative Pistoria stated that he would not have taken this on if he felt this would be a burden to the state.

Senator Van Valkenburg questioned as to how many people are uninsured that are driving on the highways of Montana.

W. Boyce Clarke, legislative counsel for the Independent Insurance Agents of Montana stated that the highway patrol felt that it was as high as 40 percent of the drivers.

Senator Van Valkenburg said that certainly 40 percent of the people cannot be on welfare and there must be a lot of people who should have insurance.

Senator Turnage wondered where they got the figures from - was this word of mouth or a report from an insurance company. He stated that that kind of testimony is ridiculous.

Senator Turnage moved that the bill be not concurred in. The motion carried with a vote of 6 yes and 4 no. (See Roll Call Vote.)

RECONSIDERATION OF HOUSE BILL 338:

Senator Turnage noted that there has been no evidence to indicate that the people have been abused under existing law. Senator Towe asked him to note the date of the Supreme Court decision which was May, 1978 and there has not been enough time to have many repercussions.

Mr. Clark said it was his understanding that the Welfare Department would work it into the people's budget to include those charges. He stated he has had occasions to place insurance for welfare people on homes. I am not sure if this would apply to car insurance.

Mr. Ashley was present, and stated he drafted the bill and would be available for questions.

There being no further questions the hearing was closed on House Bill 708.

CONSIDERATION OF HOUSE BILL 404: Representative Walter Sales, District 79, said this is an act to amend section 7-14-2201, M.C.A. providing that counties are required to maintain only public bridges located in towns or cities or on maintained county roads. He said, although the county is not responsible for maintaining the roads, such as logging roads, but they are responsible for maintaining the bridges on these roads. This law changes that, so they will be responsible for maintaining only those bridges in the cities and towns and the county roads that are always maintained.

Senator Etchart asked about the fiscal impact of this, if this did not pass.

Representative Sales said it would become a major cost. They discovered that Gallatin County has several hundred bridges that could be so classified.

There being no other proponents, opponents or questions, the hearing was closed on House Bill 404.

CONSIDERATION OF HOUSE BILL 574: Rerpresentative Day, District 54, chief sponsor of HB 574, said this is an act to amend section 61-4-102, M.C.A., to raise the motor vehicle dealer registration fee to $45. This bill raises the motor vehicle dealer registration fee from $30 to $45. The $30 fee has been in effect since 1947. This bill was requested by the Department of Justice.

Chairman Etchart asked if there were any other proponents.

Larry Majerus, Division of Motor Vehicles, Legal Division, said the department requested this bill because after doing a study, they discovered the money they received was not covering the cost. Included in this fee, the department keeps reports, renews licenses and investigates complaints. We try to keep it small. I think these are minimal costs that will assist the program.

Chairman Etchart asked if there were any other proponents.

Jerry Raunig, Montana Automobile Dealers Association, told the committee, as all of you know, we work closely with the Department. We have no objection to the increase.

ACTION ON HOUSE BILL 404: Senator Graham made the motion that House Bill 404 Be Concurred In. The committee voted unanimously that House Bill 404 be concurred in. The motion carried. Senator Graham will carry this bill on the floor of the Senate.

ACTION ON HOUSE BILL 574: Senator Kolstad made the motion that House Bill 574 Be Concurred In. The committee voted unanimously that House Bill 574 Be Concurred In. The motion carried. Senator Kolstad will carry this bill on the floor of the Senate.

ACTION ON HOUSE BILL 708: Chairman Etchart requested that the committee hold House Bill 708 over until the next meeting to give him time to study the legislation further.

There being no further business the meeting adjourned. The next meeting of the Committee on Highways and Transportation will be on March 8, 1979, at 1:00 P.M. in Room 410 of the State Capitol Building.

Mark Etchart

SENATOR MARK ETCHART, CHAIRMAN

cdf

3-6-79

ROLL CALL

Weights & Measures COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Mark Etchart, Chairman	✓		
Tom Hager, Chairman	Late ✓		
Frank W. Hazelbaker	✓		
Allen C. Kolstad	✓		
Carroll A. Graham	✓		
Dave Manning			
John E. Healy (Jack)	✓		

Each Day Attach to Minutes.

SENATE

NAME: W. Boyce Clarke DATE: 3/6/79

ADDRESS: 3124 Vigilante Drive - Helena

PHONE: 442 6778

REPRESENTING WHOM? Ind. Ins Assn of Montana

APPEARING ON WHICH PROPOSAL: HB 708

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: No prel testimony furnished.

Mr. Melby and Mr. Drake representing their company associations concur. - These men are appearing in other conflicting Hearings. -

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

House Bill No. 708 6 Mar 79

Mr. Chairman, and members of the Committee:

For the record, I am Boyce Clarke, representing Independent Insurance Agents of Montana.

From our observations, we believe your constituents want some form of mandatory or compulsory auto liability insurance legislation. In bills previously proposed, there has always been a staggering fiscal note and the prospect of a paper shuffling nightmare.

This bill, patterned after one in use in Idaho, is self enforcing, uncomplicated and can be implemented with very little cost. It is looked upon as a practical approach to the problem in Montana by the Montana Highway Patrol. It probably isn't perfect, but it looks like a mighty good way to start on this thorny problem.

Thank you.

W Boyce Clarke

NAME: Jim Mahlon DATE: 3/6/79

ADDRESS: 607 N. Cambern

PHONE: 442-5720

REPRESENTING WHOM? Montana Automobile Association

APPEARING ON WHICH PROPOSAL: HB 708

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Larry Magnuson DATE: 3-6-79

ADDRESS: _____

PHONE: 3800

REPRESENTING WHOM? Motor Vehicle

APPEARING ON WHICH PROPOSAL: S-14 / 108

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Larry Hirst DATE: 2/6/19

ADDRESS: 107 7th

PHONE: 442-8070

REPRESENTING WHOM? Montana Motor Carriers Assn.

APPEARING ON WHICH PROPOSAL: HB 703

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

BY RISTORI "E"

FOR TESTIMONY ON H.B. 708 - THUR-FEB.15,1979

EXPLANATION OF COMPULSORY AUTO INSURANCE BILL

SECTION (I) SECTION ONE __ THIS IS A SECTION SIMILAR TO ONE WHICH APPEARS IN IDAHO COMPULSORY AUTO ~~XXX~~ INSURANCE BILL.

(1) — FIRST SUBSECTION REQUIRES ANY AUTO OWNER IN MONTANA TO CONTINUOUSLY PROVIDE INSURANCE ON HIS VEHICLE FOR BODILY INJURY, DEATH OR DAMAGE TO PROPERTY. IT SETS OUT THE STATUTORY DEFINITION OF MOTOR ~~X~~ VEHICLE IN LINE WITH THE CODES, SETS THE INSURANCE LIMITS IN LINE ~~XX~~ WITH THE CODES AND PROVIDES FOR SELF-INSURANCE AS PROVIDED FOR IN THE CODES.

(2) - SECOND SUBSECTION ALLOWS SOMEONE WHO WISHES TO TO POST AN INDEMNITY BOND WITH THE DIRECTOR OF INSURANCE RATHER THAN HAVING INSURANCE. SUCH A BOND IS DESIGNED TO GUARANTEE PAYMENT OF DAMAGES WITHIN THIRTY DAYS AND WITHIN THE LIMITS SET OUT IN THE CODES.

(3) — THIRD SUBSECTION SAYS THE BOND ~~XX~~ PROVIDED FOR IN THE SECOND SUB-SECTION IS CONTINUING THROUGHOUT THE PERIOD DURING WHICH THE VEHICLE IS REGISTERED AND ~~XXX~~ THAT SUCH BOND SHALL BE ON A FORM APPROVED BY THE COMMISSIONER AND TAKEN OUT WITH A SURETY COMPANY AUTHORIZED TO DO BUSINESS IN MONTANA.

SECTION (II) SECTION TWO:

THIS IS THE SECTION THAT SETS UP THE METHOD BY WHICH COMPLIANCE WITH THE LAW IS SHOWN.

SECTION (1) SUBSECTION ONE REQUIRES ONE DESIRING TO REGISTER HIS VEHICLE TO ~~XXX~~ CERTIFY THE EXISTENCE OF THE INSURANCE AND ALLOWS THE DIVISION OF MOTOR VEHICLES TO CANCEL ANY REGISTRATION AND LICENSE PROCURED THROUGH THE USE OF MISREPRESENTATION. THIS SECTION PUTS THE BURDEN OF PROOF OF INSURANCE ON THE ONE ~~WHXSHXX~~ OWNING THE CAR. IT IS HE WHO MUST PRESENT THE CERTIFICATION TO THE CLERK OF COURT AND ~~XX~~ THIS REMOVES MUCH OF THE ~~XXXXX~~ PAPERWORK REQUIRED BY SIMILAR LAWS ELSEWHERE.

SECTION (2) SUBSECTION TWO REQUIRES AN OWNER OF A VEHICLE UPON WHICH THE INSURANCE HAS LAPSED TO SURRENDER HIS REGISTRATION AND LICENSE PLATES.

SECTION (III) SECTION THREE:

THIS SECTION EXEMPTS CERTAIN VEHICLES FROM THE COMPULSORY AUTO INSURANCE PROVISION. EXEMPTED VEHICLES INCLUDE: THOSE OWNED BY ANY ~~XXXXX~~ BRANCH OF GOVERNMENT: VEHICLES THAT HAVE HAD BONDS POSTED WITH THE DIVISION AS PROVIDED IN SECTION ONE: SELF INSURED VEHICLES AS PROVIDED FOR BY THE CODES: FARM EQUIPMENT AND OTHER SUCH EQUIPMENT WHICH IS ONLY RARELY USED ON THE ROADS: VEHICLES WHICH ARE ONLY OPERATED ON ~~XXX~~ RARE OCCASIONS TO CROSS THE HIGHWAYS AND ARE GENERALLY OPERATED OFF THE ROAD:

Redd Mon-Jon, "E" 19

AUTOMOBILE LIABILITY
INSURANCE

Automobile liability insurance, historically, was developed, not
as a means of compensating victims, BUT AS A MEANS OF PROTECTING
DRIVERS FROM FINANCIAL LOSS RESULTING FROM THE LEGAL LIABILITY DU
NEGLIGENT OPERATION OF THEIR AUTOMOBILE. Much of the criticism of
bile liability insurance today stems from a fundamental misconcept
what the liability section of the automobile insurance policy is d
to accomplish. To repeat, the automobile liability policy was nev
signed to protect the injured party, but rather to insulate the ow
operator from legal liability claims, valid or otherwise, arising
the operation of his automobile.

The active interest in compulsory automobile liability insurance t
arises out of the misconception that automobile liability insurance
automatically to pay for injuries or damages resulting from an auto
accident. It just doesn't work that way. First of all, an acciden
to be reported to the company and the circumstances investigated.
very few cases is the legal liability of the people involved clear
absolute. This often brings into play the controversial comparative
negligence statute. Ultimately, in the more serious cases, where pa
cannot agree, a lawyer is involved and possibly a suit is filed. Un
agreed settlement is reached or a judgment awarded, the case is not
cluded, and there could be appeals. All of this is time consuming,
pensive and, but in few cases, results in complete satisfaction to th
claimant. To make matters worse, many claims are relatively small an
involve damage to the claimant's automobile with repair costs coming
below his collision deductible if there is collision coverage. Though

49-1534, Idaho Code, or has previously posted an indemnity bond with the director of insurance as provided by section 49-233, Idaho Code. A violation of this section shall be a misdemeanor.

V. 49-111, Idaho Code--REGISTRATION CARDS. (c) The owner, upon receiving the registration card, shall sign the usual signature or name of such owner with pen and ink in the space provided upon the face of such card.

VI. 49-112, Idaho Code--REGISTRATION CARD TO BE CARRIED. The registration card issued for a vehicle required to be registered hereunder shall at all times while the vehicle is being operated upon a highway within this state be in the possession of the operator or chauffeur thereof or carried in the vehicle and subject to inspection by any peace officer.

most frustrating, economically, it is often impractical to pursue these cases through the courts.

All of this, then, simply points up the fact that, even with 100% compliance under a compulsory automobile liability insurance statute, many claimants will not receive full or even partial payment for their loss. At the same time, for the insured, the automobile liability policy is doing just exactly what has been contractually agreed upon and for which a specified premium has been paid.

APPLICANT

STATE OF IDAHO • KELLY PEARCE, DIRECTOR
DEPARTMENT OF LAW ENFORCEMENT

CARRY IN VEHICLE AT ALL TIMES

*TITLE MUST BE IN REGISTRANT'S NAME

LICENSE EXPIRES	STICKER NO	LICENSE NO	REGISTRATION FEE
VEHICLE IDENTIFICATION NUMBER		IDAHO TITLE NUMBER*	PLATE FEE
WGT FUEL	YEAR	MAKE	TYPE	TRANSFER ADD FEE
				CO TRANS
NAME AND ADDRESS				
Sample				FUEL TAX
				PUC FEE
				MAILING FEE
I/we certify under penalty of law that this vehicle is and will be continuously insured as prescribed by law. 49-233 I.C.				
				TOTAL FEES
SIGNATURE OF APPLICANT				

APPLICANT MUST SIGN TO BE VALID

FORM FOR
SELF-CERTIFICATION ON APPLICATION FOR LICENSE PLATES

I hereby certify that I have mandatory automobile liability insurance with _____, name of company

_____. policy no.

I further certify that I will maintain my automobile liability insurance as long as this vehicle is licensed and operated on public roads, and failure to do so will automatically result in a misdemeanor.

_____
Signature

_____
Date

NOTICE

IDAHO COMPULSORY INSURANCE LAW

EFFECTIVE APRIL 1, 1976

I. All applicants must certify existence of automobile liability insurance in an amount not less than that required by Section 49-1521, Idaho Code, when registering or reregistering the following vehicles.

Passenger Cars & Pickups, 8,000 lbs GWT and under, including

National Guard	Disabled Veteran
Air National Guard	Personalized
Radio Amateur	Idaho Old Timer

II. 49-233, Idaho Code--REQUIRED MOTOR VEHICLE INSURANCE. (a) Every owner of a motor vehicle which is registered and operated in Idaho by the owner or with his permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of a motor vehicle or motor vehicles described therein in an amount not less than that required by section 49-1521, Idaho Code, ($10,000/$20,000/$5,000), and shall demonstrate the existence of any other coverage required by title 49, Idaho Code, or a certificate of self-insurance issued by the director of law enforcement pursuant to section 49-1534, Idaho Code, for each motor vehicle to be registered. (b) An Indemnity Bond with the Director of Insurance.

III. 49-234, Idaho Code--PROOF OF COMPLIANCE. Before any applicant required to register his motor vehicle as defined in section 49-232, Idaho Code, may do so the applicant must certify the existence of automobile liability insurance covering the motor vehicle or vehicles on a form prescribed by the department of law enforcement. The department of law enforcement may immediately cancel the registration card and license plates of the vehicle upon notification that the insurance certification was not correctly represented.

An owner of a motor vehicle who ceases to maintain the insurance required in accordance with this act shall immediately surrender the registration card and license plates for the vehicle to the department of law enforcement and may not operate or permit operation of the vehicle in Idaho until insurance has again been furnished as required in accordance with this act and the vehicle is again registered and licensed.

IV. 49-235, Idaho Code--PENALTIES. It shall be unlawful for any person to operate a motor vehicle upon highways, streets, or roadways of this state without a valid policy of liability insurance in full force and effect in an amount not less than that provided in section 49-1521, Idaho Code, or unless such person has been issued a certificate of self-insurance pursuant to section 49-1534, Idaho Code, or has previously posted an indemnity bond with the director of insurance as provided by section 49-233, Idaho Code. A violation of this section shall be a misdemeanor.

V. 49-111, Idaho Code--REGISTRATION CARDS. (c) The owner, upon receiving the registration card, shall sign the usual signature or name of such owner with pen and ink in the space provided upon the face of such card.

VI. 49-112, Idaho Code--REGISTRATION CARD TO BE CARRIED. The registration card issued for a vehicle required to be registered hereunder shall at all times while the vehicle is being operated upon a highway within this state be in the possession of the operator or chauffeur thereof or carried in the vehicle and subject to inspection by any peace officer.

RECD - MON - NOV. 27, 1979 - IDAHO - COMPULSARY LIABILITY INSURANCE LAW - AMENDED & ADOPTED IN 1976 - FROM IDAHO LEGISLATIVE COUNCIL MR. MYRAN SCHECHTE.

ays to be maintained and
of boats shall be credited
of such county; and (2)
, at the sole discretion of
set aside for search and
heriff, or be placed in the
set aside for search and
ire and maintain special
be used to train personnel
5, § 5, p. 79; am. 1957, ch.
; am. 1977, ch. 122, § 1, p.

- Appointment — Duties.
may appoint waterways
es in an advisory capacity
waterways and expendi-
license fund, and to hold
y commissioners. [I. C.,
13; am. 1969, ch. 210, § 2,

plates.—Any active mem-
the state of Idaho, may,
nt of law enforcement,
vehicles and receive for
of regular number plates.
subject to the approval of
being an active member
to the director before the
tes shall be issued for one

ndividual's discharge from
that the special national
director or exchanged for
discharge. [1963, ch. 61,
1974, ch. 27, § 103, p. 811;

2 of S. L. 1972, ch. 158 pro-
ct should take effect on and
ary 1, 1973.

lates.—Active members of
or, at a time to be set by
cial number plates under
sult in the member being
uld the director be unable
Special plates may still be
Idaho national guard will
. 61, § 2, p. 242; am. 1974,

registration expires—Re-
tional guard transfers
cially registered under

this act, the registration shall expire but the member may hold his special number plates which he may have reissued to him upon the payment of the required transfer fees. He may only display such plates after receipt of new registration from the director. [1963, ch. 61, § 3, p. 242; am. 1974, ch. 27, § 105, p. 811.]

49-231. Personalized license plates.—Any person who is the registered owner of a motor vehicle may apply for personalized license plates in lieu of regular numbered plates. In addition to the regular registration fee, the applicant shall be charged a fee of twenty-five dollars ($25) for the initial issuance of such plates, and twenty-five dollars ($25) upon each succeeding annual registration of the vehicle. The personalized license plates shall be of the same color and design as other license plates, and shall consist of numbers or letters, or any combination thereof, not exceeding six (6) positions. No more than one (1) particular combination of letters and numbers shall be in existence at any one (1) time. The form for application of such plates will be as prescribed by the department of law enforcement, and the director may refuse to issue such plates in his discretion. The additional fee prescribed by this section shall be deposited to the credit of the highway fund of the state treasury and shall be used for highway beautification purposes as prescribed in chapter 28, title 40, Idaho Code.

When personalized license plates are issued for a motor vehicle, regular numbered plates on such vehicle must be surrendered to the department of law enforcement. Personalized license plates must also be surrendered upon failure to pay the annual fee for personalized license plates. [I. C., § 49-231, as added by 1972, ch. 288, § 1, p. 724; am. 1974, ch. 27, § 106, p. 811.]

Compiler's notes. Section 2 of S. L. 1972, ch. 288 provided the act should take effect on and after July 1, 1972.

Section 107 of S. L. 1974, ch. 27 is compiled as § 49-306.

Section 196 of S. L. 1974, ch. 27 provided the act should take effect on and after July 1, 1974.

START

49-232. Certificate of liability insurance — Definitions. — For the purposes of this act, the term "motor vehicle" is any self-propelled vehicle required to be registered for use on the public roads or highways under the laws of the state of Idaho except those vehicles required to be licensed under section 49-127, Idaho Code. [I. C., § 49-232, as added by 1976, ch. 247, § 2, p. 848.]

Compiler's notes. Former sections 49-232—49-237 which comprised S. L. 1975, ch. 158, § 1, were repealed by S. L. 1976, ch. 247, § 1.

The words "this act" refer to S. L. 1976, ch. 247, §§ 2-5, which is compiled herein as §§ 49-232—49-235.

As enacted the section heading of this section read "Definitions."

Sec. to sec. ref. This section is referred to in § 49-234.

49-233. Required motor vehicle insurance.—(a) Every owner of a motor vehicle which is registered and operated in Idaho by the owner or with his permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of a motor vehicle or motor vehicles described therein in an amount not less than that required by section 49-1521, Idaho Code, and shall demonstrate the existence of any other coverage required by title 49, Idaho Code, or a certificate of self-insurance issued by the director of law enforcement pursuant to section 49-1534, Idaho Code, for each motor vehicle to be registered.

start compile IDAHO LAW. under the IDAHO CODES appeared & had them Replaced to correspond with the present

STATE IDAHO

HB 708. "F" 10 Copies

I support HB 708. I sponsored HB 262 which was mandatory insurance on all licensed motor vehicles It was a more effective bill in my opinion, but it had insurance company + opposition and $ 500,000. fiscal note from the Justice Dept. for enforcement. We therefore left it in committee and let HB 708 be introduced. It did not have the opposition, or fiscal impact information I had obtained was 378,000 uninsured vehicles on our Montana highways. This is a frightening figure! Montanans are demanding this law.

If we need more enforcement in the future, we will have a law to work with. I urge a Do Pass on HB 708.

Pat Leach

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 607	Act to provide a fee increase for a driver's license from $2 a year to $2.50 a year.	Feb. 6	Gould			
SB 251	Act to require a damaged motor vehicle to be disposed of a a licensed wrecking facility when an insurance settles a claim at total loss less salvage, etc.	Feb. 8	Boylan	March 1	Be Concurred In As Amended	March 1
SB 196	Act requiring a custom combiner's fee for MT resident combiners similar to the fee paid by nonresidents and in lieu of fees presently required.	Feb. 9	Conover	March 1	Be Concurred In	March 1
HB 685	Exempts cities from contributing to the traffic education account and the crime victims compensation account.	Feb. 10	Metcalf	Feb. 15	Do Not Pass	Feb. 15
HB 704	Clarifies the allocation of state funds for public transportation and to revise the allocation formula, etc.	Feb. 10	Fagg	Feb. 15	Do Pass	Feb. 15
HB 708	Requires motor vehicle liability protection on motor vehicles as a condition of operation of these vehicles	Feb. 10	Pistoria	Feb. 15	Do Pass as Amended	Feb. 15

House Bill 708 — Rep. Feda moved to put on line 22, page 1 "division of motor vehicles" instead of "director of insurance"; and on page 2, line 14 to insert "to the county treasurer" following "certify." The amendments carried unanimously with those present (Rep. Lien absent). Rep. Fabrega moved that HB 708 as so amended do pass. Motion carried unanimously with Rep. Lien absent.

House Bill 685 — Rep. Tropila moved do not pass. This motion carried unanimously with Rep. Lien absent.

Meeting adjourned at 2:20 p.m.

Respectfully submitted,

William R. Baeth
WILLIAM R. BAETH, Chairman

Emelia Satre, Secretary

EX. 7

PROPOSED AMENDMENTS TO HOUSE BILL NO. 708
Representative Pistoria

1. Page 1, line 22.
Following: "the"
Strike: "director of insurance"
Insert: "office of insurance commissioner"

2. Page 2, line 14.
Following: "certify"
Insert: "to the county treasurer"

Form CS-34
1-79

NAME [illegible] BILL No. [illegible]

ADDRESS [illegible] DATE 2-12-79

WHOM DO YOU REPRESENT Montana Rail

SUPPORT _____ OPPOSE _____ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Partial to bill. Suggest amendment to clarify self insured exemption.

Exh. 5 Burnham

SUGGESTED AMENDMENTS TO H. B. 708

* * * * *

At page 3, line 3, delete "drivers", insert "owners and operators". At line 4 add an "s" to "section" and add "2, and 4" after 1. Lines 2-4 of page 3 would then read:

"NEW SECTION. Section 3. Exempt vehicles. The following vehicles and their ~~drivers~~ owners and operators are exempt from the provisions of [sections 1, 2, and 4]:

At page 4, lines 5-6, after "self-insurance" delete "pursuant to [section 2]".

Form CS-34
1-79

NAME Genevieve S. ADAIR Home

BILL No. 708

ADDRESS 1012 Bedford St. Helena DATE 2/15/79

WHOM DO YOU REPRESENT National Association of Retired Federal Employees ~~Federal Employees Retired~~

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We favor this legislation requiring liability insurance on all cars as a protective measure for the Senior Citizens.

Genevieve S. Adair

FORTY-SIXTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY - SENATE

	House BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
65.	HB-652	2/23/79	3/5/79	3/19/79						
66.	HB-666	2/19/79	3/8/79	3/8/79				3/8/79		
67.	HB-668	2/19/79	3/8/79	3/8/79				3/8/79		
68.	HB-673	2/20/79	3/8/79	3/8/79				3/8/79		
69.	HB-675	2/21/79	3/8/79	3/8/79					3/8/79	
70.	HB-691	2/28/79	3/19/79	3/21/79						3/20/79
71.	HB-697	2/20/79	3/9/79	3/9/79					3/9/79	
72.	HB-699	2/20/79	3/10/79	3/10/79					3/10/79	
73.	HB-701	2/23/79	3/10/79	3/12/79					3/10/79	
74.	HB-705	2/22/79	3/9/79	3/9/79				3/9/79		
75.	HB-708	3/8/79	3/19/79	3/21/79						3/20/79
76.	HB-712	2/20/79	3/10/79	3/14/79					3/14/79	
77.	HB-713	2/23/79	3/10/79	3/13/79					3/10/79	
78.	HB-719	2/22/79	3/12/79	3/13/79						3/13/79
79.	HB-737	2/22/79	3/12/79	3/14/79					3/14/79	
80.	HB-747	2/23/79	3/12/79	Tabled 3/13/79						

Use a separate sheet for Senate, House Bills and Resolutions

Date 2/-2/79

ROLL CALL

JUDICIARY COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Lensink, Everett R., Chr. (R)	✓		
Olson, S. A., V. Chr. (R)	✓		
Turnage, Jean A. (R)	✓		
O'Hara, Jesse A. (R)	✓		
Anderson, Mike (R)	✓		
Galt, Jack E. (R)	✓		
Towe, Thomas E. (D)	✓		
Brown, Steve (D)	✓		
Van Valkenburg, Fred (D)	✓		
Healy, John E. (Jack) (D)	✓		

Each Day Attach to Minutes.

Patrick E. Melby

ATTORNEY AT LAW
DIAMOND BLOCK BUILDING
P. O. BOX 1721
HELENA, MONTANA 59601
TEL: (406) 443-5554

March 15, 1979

Senator Everett Lensink, Chairman
Senate Judiciary Committee
State Capitol
Helena, Montana 59601

RE: HOUSE BILL NO. 708

Dear Senator Lensink:

As you know, I am lobbying for the Alliance of American Insurers, a trade association consisting largely of mutual property and casualty insurance companies.

The Alliance supports House Bill No. 708, introduced by Representative Paul Pistoria, which was referred to your Committee from the Senate Highways Committee.

H.B. No. 708 would require that the owner of a motor vehicle have liability insurance as a condition of operation of the motor vehicle upon a public highway.

The problem of the absence of liability protection for owners of motor vehicles and for those who are injured by uninsured motorists has been recognized for some time. In the past several Legislative Sessions, several bills have been introduced to attempt to remedy this problem. Those have been either no-fault motor vehicle insurance bills or other mandatory motor vehicle liability bills. Those bills have died largely of their own weight because of their length and complexity. House Bill No. 708 is a simple and straightforward solution to this problem. It simply requires that an applicant for registration of a motor vehicle certify to the County Treasurer of the existence of automobile liability insurance or some other liabil protection. If it was later found that the individual did not have protection from liability, that individual would be guilty of a misdemeanor.

This Bill, if enacted, would place the burden of enforcement on the owner of a motor vehicle and not on some state agency. House Bill No. 708 protects not only an individual who suffers bodily or property damage resulting from the operation of a motor vehicle which is not covered by liability insurance, but would also protect the owner of such automobile from potential jury awards which may be economically devastating.

I urge the Senate Judiciary Committee to recommend that House Bill No. 708 do pass.

Sincerely,

Patrick E. Melby

PATRICK E. MELBY
Attorney at Law

cc: Paul Pistoria

The Big Sky Country

STATE OF MONTANA
SOCIAL AND REHABILITATION SERVICES
P.O. BOX 4210
HELENA, MONTANA 59601

THOMAS L. JUDGE
GOVERNOR
PATRICK E. MELBY
DIRECTOR

March 9, 1979

State Representative Paul Pistoria
House of Representatives
Capitol
Helena, MT 59601

Dear Representative Pistoria:

Thank you for taking time to meet with me and my sta: regarding House Bill 708 to discuss your concern for welfa recipients ability to meet the auto insurance requirement. Currently we allow mileage in the amount of 9¢ per mile fo working welfare recipients. I would assume that they woul have to take the cost of insurance and licensing out of th 9¢ a mile work allowance.

Also, for clarification, we discussed the fact that Compulsory Auto Insurance would save an unspecified amoun for the Medicaid Program. Every year there are some indi who are forced to apply for Medicaid as a result of an automobile injury which was not covered by insurance.

I hope this answers your questions. If I can provide further information, please contact me.

Very truly yours,

Jack R. Carlson, Administrator
Economic Assistance Division

JRMc/jls

Exhibit B

Add. Info. Mar. 8, 1979
Rep. Pistoria

Representative Pistoria House Bill 708

Following your call today regarding Senator Turnage's question about who was going to pay the liability insurance premiums for welfare recipients if the coverage becomes compulsory.

Through Mayo Ashley, I checked with the head of SRS here in Helena and the District Supervisor in Great Falls. Both men were aware of the bill but hadn't related to question of how the premiums would be paid, except they presumed that such premiums would have to be included in the auto budget just the same as they would have to include the cost of licensing and registering the car and providing fuel and other services for the car.

I also checked with a Phyllis Brant of the Idaho Department of Law Enforcement in Boise and her response was that welfare auto owners were treated just the same as any other registrant of a motor vehicle and there had been no problem in her department whatsoever. Her phone number is (208) 384-2586 if anyone would like to confirm this statement.

I am going to be out of Helena Friday and Saturday and will return Sunday afternoon. In the meantime, Mayo Ashley has been alerted to help you further if needed while I am away. His phone at the office is 442-3100 and at home it is 442-7266.

Carol Clark

NATIONAL RETIRED TEACHERS ASSOCIATION

AMERICAN ASSOCIATION OF RETIRED PERSONS

MONTANA JOINT STATE LEGISLATIVE COMMITTEE

CHAIRMAN
Mr. Arthur L. Jacobson
2908 7th Avenue South
Great Falls, MT 59405
(406) 452-5526

VICE CHAIRMAN
Mr. Mark Jennings
2537 Olofson Drive
Missoula, MT 59801
(406) 543-7948

SECRETARY
Mr. T. H. Brekke
304 Pueblo Drive
Billings, MT 59102
(406) 656-3613

LEGISLATIVE TASK FORCE

Mrs. Genevieve Adair
1014 Bedford
Helena, MT 59601
(406) 442-6773

Mr. Ralph C. Henry
P.O. Box 993
Helena, MT 59601
(406) 442-3299

Mr. Arnold G. Erickson
1006 Allison Avenue
Helena, MT 59601
(406) 442-8598

Mr. Tom Ryan
2604 n. Cooke
Helena, Mt.
442-8999

Helena, Montana
March 14, 1979

Representative Paul Pistoria:

There are 114,460 people in Montana over the age of 60. 42,810 of them belong to either the NRTA or AARP.

One of the principal goals of this group is to urge the Legislature to improve Montana's Motor Vehicle Financial Responsibility Law.

H.B. 708 introduced by you and others meets these concerns of the Senior Citizens. We support H.B. 708 and give you permission to express our views and urge the Judiciary Committee of the Senate to support H.B. 708 with a favorable vote in the Committee and on the floor of the Senate.

Thank you for allowing us to express our views.

Genevieve S. Adair

Genevieve S. Adair

Frank M. Hodgson
President NRTA

National Headquarters

EX. 6 4

NATIONAL RETIRED TEACHERS ASSOCIATION
AMERICAN ASSOCIATION OF RETIRED PERSONS

MONTANA JOINT STATE LEGISLATIVE COMMITTEE

CHAIRMAN
Mr. Arthur L. Jacobson
2908 7th Avenue South
Great Falls, MT 59405
(406) 452-5526

VICE CHAIRMAN
Mr. Mark Jennings
2537 Olofson Drive
Missoula, MT 59801
(406) 543-7948

SECRETARY
Mr. T. H. Brekke
304 Pueblo Drive
Billings, MT 59102
(406) 656-3613

COMPULSORY AUTOMOBILE LIABILITY INSURANCE

Fact Sheet

The first automobile bodily injury liability insurance was issued in the U.S. in 1898. During the 1970's financial responsibility laws were enacted in a number of states in the wake of the magnitude of automobile hazards in terms of deaths and personal injuries.

Financial responsibility laws sprang from public recognition that an injured person's right to recovery in a law suit was illusory unless the judgment awarded was actually paid.

By 1971 all states had financial responsibility laws; but a 1971 U.S. Supreme Court decision struck down provisions revoking driver's licenses of uninsured motorists. Due process was violated because motorists were stripped of their licenses without an opportunity to show they were not negligent.

Nevertheless, financial responsibility of motorists remains an important concern. The California Supreme Court for example, has ruled:

> "The entire financial responsibility law must be liberally construed to foster its main objective of giving monetary protection to that ever changing and tragically large group of persons who, while lawfully using the highways themselves, suffer grave injury through the negligent use of those highways by others." (Inter Insurance Exchange of Automobile Club of Southern California v. Ohio Casualty Insurance Co., 58 Cal. 2d 142, 373 P. 2d 640).

Frank M. Hughes

Despite legal and other pressures for drivers to possess liability insurance, the problem of uninsured drivers remains. Nationally, 15-20% of the nation's automobiles are not even nominally insured with respect to liability. Also uninsured drivers are typically poor risks and contribute more than their proportional share of automobile accidents than do insured owners and drivers.

Some states, including Massachusetts, North Carolina, and New York have statutes requiring that motorists obtain liability insurance as a condition precedent to driving.

We urge the Montana Legislature to enact a similar law.

The Big Sky Country

MONTANA STATE SENATE

EXHIBIT NO. 1
DATE 1-15-85
BILL NO. SB 6

COMPULSORY AUTO INSURANCE

Underwriter Bill Ellis, Unigard Insurance Co., Branch Office, Spokane

"The Idaho experience has been an administrative nightmare. The Idaho Department is unable to, in any way, keep up with lapsed policie or non-renewals. The act seems to be impossible to administer."

Dean Berretto, Home Office Auto Department, Northwest Casualty, Seattl

"New York and North Carolina both have compulsory auto insurance laws and have found them to be administrative headaches with many, many problems. People will buy an insurance policy with a term of only one month or two, show the identification card to get their driver's license and then let the policy lapse and go eleven months without insurance. Next year, they go through the same exercise.

"Elderly persons, because of age, pay a higher premium for their insurance and in most instances, it is a real financial burden.

"When everyone is insured, the attitude seems to be -'let's sue them. These big companies have a lot of money.' Many fender benders become law suits and while many do not result in judgments, the legal expense becomes horrendous and results in higher premiums for every insurance buyer."

Terry J

SENATE COMMITTEE JUDICIARY

Date 3/30/79 Bill No. 112 Time 11:14

NAME	YES	NO
Lensink, Everett R., Chr. (R)	✓	
Olson, S. A., V. Chr. (R)	✓	
Turnage, Jean A. (R)	✓	
O'Hara, Jesse A. (R)	✓	
Anderson, Mike (R)	✓	
Galt, Jack E. (R)	✓	
Towe, Thomas E. (D)		✓
Brown, Steve (D)		✓
Van Valkenburg, Fred (D)		✓
Healy, John E. (Jack) (D)		✓
	6	4

Secretary Chairman

Motion: Bill amended do

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 21, 19 73

MR. President:

We, your committee on Judiciary

having had under consideration House Bill No. 703

Respectfully report as follows: That House Bill No. 703

BE NOT CONCURRED IN

DO PASS:

STATE PUB. CO.
Helena, Mont.

EVERETT R. Lensink Chairman.

INDEPENDENT INSURANCE AGENTS OF MONTANA

W. BOYCE CLARKE
Legislative Counsel
Telephone (406) 442-6778
3124 Vigilante Drive
HELENA, MONTANA 59601

13 March 1979

Senator Everett Lensink, Chairman
Senate Judiciary Committee
Montana Senate
Helena, Montana

HOUSE BILL NO. 708 - Compulsory Automobile Liability Insurance

Senator Lensink, Representative Pistoria has requested that I write to you and your Committee concerning the position of my people on the subject treated in the above bill.

Just before this Legislative Session, I accompanied members of the Consumer-Governmental Affairs Committee of the Independent Insurance Agents of Montana on a trip around the entire state. We met with a total of 57 Legislators in ten communities. At each meeting, the one issue that seemed to have constituent priority was the subject of compulsory automobile liability insurance. This form of legislation has been proposed on several occasions without success, primarily because of the high fiscal cost of supervision and enforcement as well as the veritable paper blizzard it engendered.

We learned of the Idaho Compulsory Law from several sources, including Representative Pistoria. Upon considerable investigation, we learned the Idaho law was self certifying, uncomplicated, inexpensive to activate, and best of all, seems to be working. House Bill No. 708 is the adaptation of the Idaho law.

While this bill probably isn't perfect, we believe it is a good way to recognize the thorny problem and satisfy the constituent demand.

Thank you.

W. Boyce Clarke

HB 0708/05

HOUSE BILL NO. 708

INTRODUCED BY PISTORIA, GILLIGAN, H. ROBBINS, TROPILA, VINCENT, BENGTSON, HOLMES, DOZIER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING MOTOR VEHICLE LIABILITY PROTECTION ON MOTOR VEHICLES AS A CONDITION OF OPERATION OF THOSE VEHICLES UPON THE HIGHWAYS OR OTHER PREMISES OPEN TO USE BY THE PUBLIC; AMENDING SECTIONS 61-6-123 AND 61-6-142, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Required motor vehicle insurance. (1) Every owner of a motor vehicle which is registered and operated in Montana by the owner or with his permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of a motor vehicle, as defined in 61-1-102, in an amount not less than that required by 61-6-103, or a certificate of self-insurance issued in accordance with 61-6-143.

(2) A motor vehicle owner who prefers to post an indemnity bond with the ~~director of insurance~~ DIVISION OF MOTOR VEHICLES in lieu of obtaining a policy of liability insurance may do so. The bond shall guarantee that any loss resulting from liability imposed by law for bodily injury, death, or damage to property suffered by any person caused by accident and arising out of the operation, maintenance, and use of the motor vehicle sought to be registered shall be paid within 30 days AFTER FINAL JUDGMENT IS ENTERED ESTABLISHING SUCH LIABILITY. The indemnity bond shall guarantee payment in the amount provided for insurance under subsection (1).

(3) Any bond given in connection with this section is a continuing instrument and shall cover the period for which the motor vehicle is to be registered and operated. Such bond shall be on a form approved by the commissioner of insurance with a surety company authorized to do business in the state.

NEW SECTION. Section 2. Proof of compliance. (1) Before any applicant required to register his motor vehicle may do so the applicant must certify AND DISPLAY TO THE COUNTY TREASURER ~~the existence of~~ AN automobile liability insurance POLICY, A CERTIFICATE OF SELF-INSURANCE, A POSTED INDEMNITY BOND, OR ELIGIBILITY FOR AN EXEMPTION UNDER [SECTION 3] covering the motor vehicle. THE CERTIFICATION SHALL BE on a form prescribed by the division of motor vehicles. The division may immediately cancel the registration and license plates of the vehicle upon notification that the insurance certification was not

REFERENCE BILL: INCLUDES JOINT CONFERENCE COMMITTEE REPORT. DATED 4/4/89

correctly represented.

(2) An owner of a motor vehicle who ceases to maintain the insurance OR BOND required OR WHOSE CERTIFICATE OF SELF-INSURANCE IS CANCELLED OR WHOSE VEHICLE CEASES TO BE EXEMPT shall immediately surrender the registration and license plates for the vehicle to the COUNTY TREASURER FOR DELIVERY TO THE division and may not operate or permit operation of the vehicle in Montana until insurance has again been furnished as required and the vehicle is again registered and licensed.

~~(3) IT IS UNLAWFUL FOR ANY PERSON LICENSED TO ENGAGE IN THE BUSINESS OF BUYING, SELLING, EXCHANGING, OR ACTING AS A BROKER OF NEW OR USED MOTOR VEHICLES TO DELIVER THE POSSESSION OF A MOTOR VEHICLE TO A BUYER THEREOF WITHOUT FIRST REQUIRING THE BUYER TO FURNISH PROOF THAT HE HAS SATISFIED THE REQUIREMENTS OF THIS SECTION FOR REGISTRATION OF SUCH VEHICLE.~~

NEW SECTION. Section 3. Exempt vehicles. The following vehicles and their drivers are exempt from the provisions of [section 1]:

(1) a vehicle owned by the United States government or any state or political subdivision;

(2) a vehicle for which cash, securities, or a bond has been deposited or filed with the division upon such terms and conditions providing the same benefits available

under a required motor vehicle liability insurance policy;

(3) a vehicle owned by a self-insurer certified as provided in 61-6-143;

(4) an implement of husbandry or special mobile equipment that is only incidentally operated on a highway or property open to use by the public;

(5) a vehicle operated upon a highway only for the purpose of crossing such highway from one property to another;

(6) a commercial vehicle registered or proportionally registered in this and any other jurisdiction provided that vehicle is covered by a motor vehicle liability insurance policy complying with the laws of another jurisdiction in which it is registered;

(7) A MOTORCYCLE;

~~(7)~~(8) a vehicle moved solely by human or animal power.

NEW SECTION. Section 4. Penalties. It is unlawful for any person to operate a motor vehicle upon highways, streets, or roadways of this state without a valid policy of liability insurance in effect in an amount not less than that provided in [section 1] or unless such person has been issued a certificate of self-insurance pursuant to [section 2] or has previously posted an indemnity bond with the commissioner of insurance as provided by [section 1] OR IS

OPERATING A VEHICLE EXEMPT UNDER [SECTION 3]. A violation of ~~this--section~~ [SECTIONS 1 THROUGH 4] is a misdemeanor PUNISHABLE AS PROVIDED IN 61-3-601.

Section 5. Section 61-6-123, MCA, is amended to read:

"61-6-123. Suspension to continue until judgments paid and proof given -- maximum period of suspension. Such license~~,--registration,~~ and nonresident's operating privilege shall remain so suspended and shall not be renewed, nor shall any such license ~~or--registration~~ be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent hereinafter provided, and until the person gives proof of financial responsibility subject to the exemptions stated in 61-6-122 and 61-6-125 or 6 years have passed from date judgment was first entered as provided in 25-9-301, and the person has complied with [sections 1 and 2]."

Section 6. Section 61-6-142, MCA, is amended to read:

"61-6-142. Duration of proof -- when ~~proof~~ money or securities may be canceled or returned. (1) ~~The--division shall--upon--request--consent--to--the--immediate--cancellation--of any--bond--or--certificate--of--insurance,--the~~ The division shall direct and the state treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this part as proof of financial responsibility, or the

division shall waive the requirement of filing proof under this part, in any of the following events:

(a) at any time after 3 years from the date such proof was required when during the 3-year period preceding the request the division has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration, or nonresident's operating privilege of the person by or for whom such proof was furnished;

(b) in the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

(c) in the event the person who has given proof surrenders his license and registration to the division.

(2) However, the division shall not consent to ~~the cancellation--of--any--bond--or~~ the return of any money or securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has ~~filed--such--bond--or~~ deposited such money or securities has, within 1 year immediately preceding such request been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he

STATE OF MONTANA

REQUEST NO. 378-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, 1979, there is hereby submitted a Fiscal Note for HB 708 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPITON OF PROPOSED LEGISLATION:

House Bill 708 is an act requiring motor vehicle liability protection on motor vehicles as a condition of operation of those vehicles upon the highways or other premises open to use by the public.

ASSUMPTIONS:

Under section two of this act it is assumed the state will make no asserted effort to verify that the insurance certification was not correctly represented.

One full-time FTE will be required to handle the indemnity bonds, self-insurance certification and other requirements of this act.

FISCAL IMPACT:

	FY 80	FY 81
Personal Services:		
1 FTE @ grade 15 plus employee benefits @ 15.5 percent	19,168	19,168
Operating Expense		
Printing of forms	5,000	5,000
Office supplies	530	530
Total Program	24,698	24,698

The additional cost will be funded from the Motor Vehicle Earmarked Revenue Account.

Richard L. Irwin for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/21/79